

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ALEX DELGADO,)
Petitioner,)
)
v.) Civil Action No. 04-30124-MAP
)
KATHLEEN M. DENNEHY,)
COMMISSIONER OF CORRECTION,)
Respondent.)
)

**MOTION TO ENLARGE THE TIME
FOR FILING A RESPONSIVE PLEADING**

The respondent, Kathleen M. Dennehy, Massachusetts Commissioner of Correction, through counsel, respectfully moves this Court to enlarge the time in which to file an answer or other responsive pleading to the above-captioned petition for writ of habeas corpus to September 15, 2004.

As grounds therefor, the respondent's attorney states:

1. Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts requires the respondent to answer each allegation of the complaint and state whether the petitioner has exhausted state remedies including post-conviction actions. The Rule also requires that the respondent indicate what transcripts or parts of state court proceedings are available.
2. To this end, the respondent's attorney has requested the complete record of the petitioner's state court proceedings from the Hampden County District Attorney's office. The district attorney's office must locate the files, duplicate the records, including trial transcripts, and transmit a copy to the Attorney General's Office. These are time-consuming tasks which District Attorney staffers must fit into their regular pressing duties. Additional time is needed to

review all the documents and transcripts when they arrive, to research relevant issues and to draft an appropriate response to the petition.

3. In addition, the respondent's attorney is responsible for numerous post-conviction cases which include more than 37 active federal habeas corpus petitions as well as direct criminal appeals, new trial motions, civil rights litigation and parole and probation matters. Upcoming litigation responsibilities include researching and drafting a brief for submission to the United States Court of Appeals for the First Circuit, *Sabree v. Massachusetts Parole Board*, No. 03-2163 and filing answers and motions in newly assigned habeas petitions.

WHEREFOR, the respondent respectfully moves this Court to enlarge the time for filing an answer or other responsive pleading in the above-captioned petition to September 15, 2004.

Respectfully submitted,

THOMAS F. REILLY
ATTORNEY GENERAL

Annette C. Benedetto
Annette C. Benedetto
Assistant Attorney General
Criminal Bureau
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-2200
BBO No. 037060

CERTIFICATE OF CONSULTATION

Pursuant to Local Rule 7.1 (A) (2) , the respondent's attorney certifies that she telephoned petitioner's counsel, John Thompson, on July 21, 2004, and left a message on his answering machine relative to the above motion.

Annette C. Benedetto
Annette C. Benedetto
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the attached motion and notice of appearance was served upon the petitioner's counsel by first class mail, postage pre-paid, on July 22, 2004, at the following address:

John M. Thompson
Thompson & Thompson
1331 Main Street
Springfield, MA 01103

Annette C. Benedetto
Annette C. Benedetto
Assistant Attorney General

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NOTICE OF APPEARANCE

Please enter the appearance of the undersigned as counsel for the respondent in the
above-captioned matter.

Respectfully submitted,

THOMAS F. REILLY
ATTORNEY GENERAL

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